

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

[LB79 LB80 LB161 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, January 17, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB79, LB80, and LB161 and gubernatorial appointments. Senators present: LeRoy Louden, Chairperson; Carol Hudkins, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Deb Fischer; Gail Kopplin; and Norman Wallman. Senators absent: None. []

SENATOR LOUDEN: Good afternoon, we'll start the hearing for the Natural Resources Committee. First off, I'll introduce the committee members. To my far right is Senator Wallman from Cortland; next to him that just seated is Senator Dubas from Fullerton; next to that is Senator Carlson from Holdrege; and then Senator Kopplin from Omaha; and to my right, right close here, is Jody Gittins, from the committee counsel; to my left is Carol Hudkins, vice chairman of the Natural Resources Committee from Malcolm; Senator Fischer from Valentine; Senator Christensen from Imperial; and on the end is committee clerk, Barb Koehlmoos. Also today we have with us...and our pages today are Erin Frank from Bassett, who is a student at the University of Nebraska here in Lincoln, and Steve Scharf from Lincoln also. He's a poli-science major at the university. First off, we have to turn off all our cell phones or pagers or turn them to silence anyway, and so we don't get disturbed in the hearing room. And then those wishing to testify on a bill should come to the front of the room when that bill is to be heard. As someone finishes testifying, the next person should move immediately into the chair at the table. If you do not wish to testify but would like your name entered into the official record as being present at the hearing, please raise your hand and the page will circulate a sheet for you to sign. This list will be part of the official record of the hearing. This year we are using a computerized transcription program and it is very important to complete the green sign-in sheets for testifiers prior to testifying. They are on the tables by the doors and need to be completed by all the people wishing to testify, including senators and staff introducing bills and people being confirmed. If you are testifying on more than one bill, you need to submit a form for each bill. When you come up to testify, place the form in the box by the committee clerk. Do not turn the form in before you actually testify and please print, and it is important to complete the form in its entirety. If our transcribers have questions about your testimony, they use this information to contact you. Now as you begin your testimony, state your name and spell it for the record, even if it is an easy name. Please keep your testimony concise and try not to repeat what someone else has covered. If there are large numbers of people to testify, it may be necessary to place time limits on testimony. If you have handout material, give it to the page and they will circulate it to the committee. If you do not choose to testify, you may submit comments in writing and have them read into the official record. Also, no displays of support or opposition to a bill, vocal or otherwise, please. And if you need a drink of water during your testimony, ask the page and they will get you one. With that, we are ready to begin on confirmation of John Turnbull, and John, will you please come

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

forward? He's being confirmed for appointment to the Environmental Quality Council. John, will you, I guess, tell us about yourself and why you want to be here.
[CONFIRMATION]

JOHN TURNBULL: All right. Well first off, I'm John C. Turnbull, that's T-u-r-n-b-u-l-l. I live in York, Nebraska. I was appointed by the Governor to the Environmental Quality Council last July to fill an unexpired term of an individual who resigned, and the term will run through June of 2007, so it's a short-term appointment. I'm interested in the Environmental Quality Council because I've worked with the DEQ staff over the years as a natural resource district manager on water quality issues, on solid waste issues, livestock waste issues for permitting purposes and so on. I'm interested in the work they do. I'm interested in the rule making and the policy side of the department's work. That's a real short thumbnail sketch, I guess. [CONFIRMATION]

SENATOR LOUDEN: Okay. [CONFIRMATION]

JOHN TURNBULL: I'd be glad to answer your questions or fill in whatever else you'd like to know. [CONFIRMATION]

SENATOR LOUDEN: Okay. Well, does anyone have any questions of Mr. Turnbull? Senator Hudkins. [CONFIRMATION]

SENATOR HUDKINS: Mr. Turnbull, you said that your appointment began July of 2006, so you have been attending the meetings? [CONFIRMATION]

JOHN TURNBULL: Yes. [CONFIRMATION]

SENATOR HUDKINS: And has there been anything there that surprised you or something that was particularly interesting, or tell us a little bit about the duties. [CONFIRMATION]

JOHN TURNBULL: Actually, there have been two council meetings since I was appointed and I was able to attend one which was the last one, the first part of December. And we dealt with on-site wastewater treatment facility regulations which I had never dealt with before so, yeah, that was kind of interesting going through that process. It had to do with setting of fees and some other minor changes in their rules on that. [CONFIRMATION]

SENATOR HUDKINS: Okay, now this has nothing to do with your appointment, but in the papers that you turned in, it said that you own various lots and they are used for lawns and gardens. Can you expound on that? [CONFIRMATION]

JOHN TURNBULL: Yes. My wife and I have lived in York, Nebraska since 1978. That's

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

when I started as the manager of the Upper Big Blue Natural Resource District which is the position I still hold. In 1980 we bought two acres, which was a city block on the east side of the city, undeveloped land. And we started some tree planting at that time. We built a passive solar home in 1987 on that property, and since then have done extensive landscaping and gardens and native grass plantings around that on those two acres. We have 26 varieties of trees on that property plus several varieties of native grass and lots of other perennial plants. We were awarded the Master Conservationist Award in 2001 by the World-Herald and Institute of Ag and Natural Resources for residential for that property improvement. [CONFIRMATION]

SENATOR HUDKINS: Do you give tours? [CONFIRMATION]

JOHN TURNBULL: Yes, we do. [CONFIRMATION]

SENATOR HUDKINS: Thank you. [CONFIRMATION]

JOHN TURNBULL: Yep. [CONFIRMATION]

SENATOR LOUDEN: Any other questions? Well, I guess you got off easy, John. [CONFIRMATION]

JOHN TURNBULL: That was pretty simple. [CONFIRMATION]

SENATOR LOUDEN: Yeah. [CONFIRMATION]

JOHN TURNBULL: I thought sure you'd have some tougher ones. [CONFIRMATION]

SENATOR LOUDEN: Oh, they don't look very tough to me today. [CONFIRMATION]

JOHN TURNBULL: Okay. [CONFIRMATION]

SENATOR HUDKINS: This is your first...the first appointment for this committee. [CONFIRMATION]

JOHN TURNBULL: Yes, that is correct. [CONFIRMATION]

SENATOR HUDKINS: Be glad you're not the tenth or so; we get real rough then. (Laughter) [CONFIRMATION]

JOHN TURNBULL: Okay. Well, I'm sure I'll see you again this session on some water issues. [CONFIRMATION]

SENATOR LOUDEN: Okay. Well, thank you. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

JOHN TURNBULL: Thank you, Senators. [CONFIRMATION]

SENATOR LOUDEN: Are there any proponents for the appointment of John Turnbull? Are there any opponents? Anyone in a neutral capacity? If not, I guess we'll close the confirmation hearing on John Turnbull, and congratulations. The next one will be LB79, Natural Resources, and committee counsel, Jody Gittins, will do the presentation. [CONFIRMATION LB79]

JODY GITTINS: Good afternoon, Chairman Louden, members of the committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I am committee counsel for the Natural Resources Committee and introducing this bill on behalf of the committee. The purpose of this bill is to eliminate obsolete language in the Nebraska Litter Reduction and Recycling Act that pertains to transfer of funds that have already occurred. The bill also eliminates duplicative reporting requirements concerning grant activities. Currently the Department of Environmental Quality is required to submit an annual report relating to the purpose of the Nebraska Litter Reduction and Recycling Act, and then to submit an additional annual report of the funds credited to the Nebraska Litter Reduction Fund under LB528 Annual Report. The LB528 Annual Report, which is the title of the report, provides all the information concerning all the department grant programs and all the program activities. The Annual Litter Report duplicates this information provided in the LB528 Annual Report concerning the Litter Reduction and Recycling Grants Program. The department has brought this bill to us to request that we eliminate the duplicative reporting requirements. The department is here to testify as to how those all work. [LB79]

SENATOR LOUDEN: Any questions? Okay, I guess the first proponents for LB79? [LB79]

DAVID HALDEMAN: (Exhibit 1) Good afternoon, Chairperson Louden. My name is...and other members of the Natural Resources Committee, I apologize. My name is David Haldeman. For the record, that's spelled D-a-v-i-d H-a-l-d-e-m-a-n, and I'm the administrator of the Nebraska Department of Environmental Quality Waste Management Division. My testimony this afternoon is in support of LB79 and will not be very lengthy. LB79 will help simplify reporting requirements for the department on one of the grant programs that it administers. The program I'm referring to is the Litter Reduction and Recycling Grant Program. LB79 will simplify reporting requirements by enabling the department to provide information on the program in one report instead of two as is currently required by statute. Some explanation might be helpful. Each year the department prepares two reports that contain information on the program. The first report is the Nebraska Department of Environmental Quality Litter Reduction and Recycling Grant Program Annual Report to the Governor. This report is required to be submitted to the Governor and the Appropriations Committee of the Legislature by

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

February 15 of each year. The information in the reports summarizes funding and grant program activities related to the purpose of the act for the prior fiscal year. The second report is the Nebraska Department of Environmental Quality Annual Report to the Legislature. The Annual Report to the Legislature is required to be submitted to the Clerk of the Legislature by December 1 of each year. The Annual Report to the Legislature presents funding, budget and program information on all the department's programs including information on the Litter Reduction and Recycling Grant Program. The information contained in the Annual Report to the Legislature is essentially a summary of the information that we present in the Annual Report to the Governor. If LB79 should become enacted, it would be our intent to provide substantially the same information that's already found in the Annual Report to the Governor in the Annual Report to the Legislature. This would consolidate all of the information on the grant program in one report and eliminate the need for the preparation and submittal of a second separate report. And that really concludes my testimony. I'd be happy to try to answer any questions that you might have. [LB79]

SENATOR LOUDEN: Okay. Questions? I guess you explained everything we needed to know. [LB79]

DAVID HALDEMAN: Okay. I do have copies of both reports. I could leave them if you're interested in seeing them. [LB79]

SENATOR LOUDEN: Okay. [LB79]

DAVID HALDEMAN: I know there are some folks who may not have seen them before. [LB79]

SENATOR LOUDEN: This is mostly cleanup language, so you...and how lengthy are these reports that you have to file? I mean, is this an extensive report that you file with the Governor? [LB79]

DAVID HALDEMAN: The Annual Report to the Governor, I believe, is probably about ten pages long and it goes over things like the grant program funding, staffing, provides information on how we redistribute some of the equipment that we receive back from some of the grants that we award. It provides information on what we call our percent allocation formula which is a formula we use to allocate the funds to recycling, public education and cleanup. And then it provides a listing of each of the prior year's grant recipients from that program as well as the current recipients that we would have on file from the September application. [LB79]

SENATOR LOUDEN: Okay, so it would save quite a little bit of work? [LB79]

DAVID HALDEMAN: Yeah. Right. That's, again, that's several pages. What you find in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

the Annual Report to the Legislature presently is about two pages and it's a summary from Governor's Report. [LB79]

SENATOR LOUDEN: Um-hum. [LB79]

DAVID HALDEMAN: But our intent would be to include what's in the Governor's Report in the Annual Report to the Legislature. [LB79]

SENATOR LOUDEN: All of these entitles then would be getting the same report, is that what you're telling me? [LB79]

DAVID HALDEMAN: That we prepare one report for everyone. [LB79]

SENATOR LOUDEN: Yeah, okay. Thank you. Senator Carlson. [LB79]

SENATOR CARLSON: In the, did you say that...the report that's due in February, the Governor's Report, and that essentially doesn't change until December, or have I got that turned around? [LB79]

DAVID HALDEMAN: I'm trying to think of what changes there might be. There shouldn't be any changes except for the February 15 report is for the prior fiscal year. So say for...fiscal year in 2005-2006, that would be the report that we would prepare in February 15, 2007. And the Annual Report to the Legislature, the one that's due December 1, say now of 2007, would cover essentially the prior calendar year. There is a slight difference in the timing, but the information is essentially the same. And it documents what has occurred in prior years, be it fiscal or calendar. I believe that's the way it works. [LB79]

SENATOR LOUDEN: Any other questions? I guess not. Well, thank you. [LB79]

DAVID HALDEMAN: Okay. Thank you. [LB79]

SENATOR LOUDEN: Any proponents? Any opponents? Anybody wish to testify in neutral? I guess seeing none, I guess that closes the hearing on LB79. We'll go to LB80. [LB79]

JODY GITTINS: Good afternoon, Chairman Loudon, members of the committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I'm committee counsel for the Natural Resources Committee and introducing LB80 on behalf of the committee. The purpose of this bill is to create a new grants program for communities of 5,000 population or less within the authority of the Drinking Water State Revolving Fund Act. Financing the planning and construction of drinking water projects is an exceptionally difficult and expensive process in communities smaller than 5,000 population. This proposal is to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

provide up to \$2 million annually for planning, design and/or construction of drinking water projects, including provisions to establish an emergency grant fund, and provisions for planning grants to evaluate the feasibility of regional water systems. This authority would create a parallel program similar to the existing small town grants provisions of the Wastewater Treatment Facilities Construction Assistance Act. Funding for the grants would come out of the existing fee system from which fees deposited into the Drinking Water Administration Cash Fund, and any so designated General Fund appropriations. Construction grants would also be characterized as loan forgiveness under the provisions of the Safe Drinking Water Act, allowing the grants to count as a state match towards meeting the 20 percent state match requirement for obtaining federal grants. Pat Rice is here from the department to further explain how the Drinking Water Act Fund functions and how it's assisted communities in the past, and what they look for in asking for this ability to assist smaller communities, especially those that have been faced with some pretty difficult safe drinking water requirements and not a lot of population to support the funding needed to supply that construction needed. [LB80]

SENATOR LOUDEN: Okay. Thank you. [LB80]

PAT RICE: (Exhibits 2 and 3) Good afternoon, Chairman Louden, members of the committee. My name is Pat Rice. My last name is spelled R-i-c-e, first name is P-a-t. I am the assistant director for the Department of Environmental Quality and I am responsible for management of the department's water quality programs. I'm here today representing the department in support of LB80. As counsel mentioned, LB80 amends the Nebraska Drinking Water State Revolving Fund Act of 1997. The original act provided financial assistance to public water systems to achieve compliance with the federal Safe Drinking Water Act. Under the state act, a mechanism for providing low interest loans for the development, treatment and distribution of drinking water supplies was established. This has been a very successful program. To date, over 102 projects totaling \$98 million have been funded through this program since 1997. The source of these funds has been \$2.3 million in General Funds that was provided to get things up and running at the initial beginning of the program, \$15.3 million in state matching bonds that are issued through NIFA and \$80.4 million in federal cap grants and loan repayments. LB80 would amend the Drinking Water State Revolving Fund Act to allow expanded uses of the Drinking Water Administration Fund for such things as providing for construction grants for up to one-half of the project costs concurrent with loans to public water supply systems of 10,000 population or less, which demonstrates serious financial hardship. Loan forgiveness is a term used in LB80 to describe a grant for consistency with language in the federal Safe Drinking Water Act. So it essentially turns into a grant if we provide loan forgiveness for the amount up to 50 percent. Providing for emergency funding for public water supply systems that have been damaged or destroyed by natural disasters or other unanticipated actions or circumstances. We've had situations where tornados have caused havoc with treatment facilities. The recent ice storm has caused a problem at some facilities. We need backup water supplies. Or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

drought can also cause a condition where a community's wells may no longer be functioning. They may not have the capacity to deepen those wells and we need to go to another source that will provide for that type of assistance as well. And it would allow communities of 10,000 or less to receive up to a 90 percent grant for a variety of studies to help communities meet the requirements of the Safe Drinking Water Act. Many times small communities aren't able to afford the \$15,000 to \$20,000 it costs for an engineering firm to come out and look over the total system in the community and make recommendations on what needs to be done to give them some options on where to proceed. This provision would allow us to provide some grant money for that, as well. Another feature would also allow the transfer of money in the Drinking Water Administration Fund to the Drinking Water Facilities Loan Fund to meet matching requirements for the federal capitalization grants. This is consistent with what we've done in the clean water fund. It would allow the transfer of those funds if there are excess administrative funds over to be used for loan purposes or for the grant purposes that I discussed. The money to finance these grants would come from the Drinking Water Administrative Fund, as I mentioned, and they'd be limited to 65 percent of the grants from the previous year's administrative fees collected. For example, in 2007, the current fiscal year that we are in, we're estimating the revenue from the fees to be about \$700,000, so we could use up the 65 percent of that, or \$455,000 for these purposes that I mentioned. And in order to harmonize the language in LB80 with the language in the federal Safe Drinking Water Act, I'm requesting that you consider the adoption of an amendment which I believe has been distributed. This amendment would simply eliminate the separate reference to "schools or," which is found at three separate locations in LB80. This change would not eliminate any eligible public water supply systems. That concludes my formal testimony and I would urge your support of the legislation with the proposed amendment and I'd be happy to answer any questions that you might have. [LB80]

SENATOR LOUDEN: Okay. Any questions of Pat? Oh, excuse me, Senator Hudkins. [LB80]

SENATOR HUDKINS: Mr. Rice, have there been instances where money has been loaned to schools? [LB80]

PAT RICE: Not directly, no. [LB80]

SENATOR HUDKINS: So this is just to harmonize with the federal legislation. [LB80]

PAT RICE: Yes. Schools would be an eligible entity under the federal provisions, but no direct loans have been made to schools. [LB80]

SENATOR HUDKINS: Thank you. [LB80]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

SENATOR LOUDEN: Senator Christensen? [LB80]

SENATOR CHRISTENSEN: Chairman Louden. So if a school is located out in the country, not in town, they are still eligible with this change? [LB80]

PAT RICE: Yes. [LB80]

SENATOR CHRISTENSEN: Okay. [LB80]

SENATOR LOUDEN: I would...the money part, and then I guess as I was listening to your testimony you said something about 10,000 population? [LB80]

PAT RICE: Yes. [LB80]

SENATOR LOUDEN: How come this says in this statement of intent, 5,000 population? Is that...is there something...is there, am I missing something, or is that...? It says for grants for programs of communities of 5,000 population or less. [LB80]

PAT RICE: I don't have that in front of me, Senator. I'm not sure exactly where that statement of... [LB80]

JODY GITTINS: It was a discussion that was had prior to the bill being actually printed, was they had talked about the need for 5,000 but the statute says 10,000 or less. So that includes the 5,000 population, so it was an error on our part. [LB80]

SENATOR LOUDEN: Oh. Okay. Thank you. No problem. Thank you. Any more questions? I guess...thank you for your testimony. [LB80]

PAT RICE: Um-hum. [LB80]

SENATOR LOUDEN: Go ahead, Gary. [LB80]

GARY KRUMLAND: Senator Louden, members of the committee, my name is Gary Krumland. It's spelled G-a-r-y, last name is K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. We are an association whose members are cities and villages across the state, and we're here in support of LB80. One of the problems, and the state does have a good program for funding water systems that you heard Pat talk about. The problem has been with some of the very small communities. If you have a \$2,000...or, excuse me...if are required by the federal government because of a certain kind of chemicals in your water to upgrade or to change your water system, and it's going to cost you \$2 million, and you have \$10,000 or \$20,000...or 10,000 or 20,000 customers, it's easy to spread that across the customers. If you only have 200 or 100 customers it's much more difficult and it makes the water too expensive even to do, so some of these

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

very small communities are facing some real problems. And we really appreciate both the committee for introducing the bill and the department for offering a way for some of these smaller communities to get funding for some of these problems they face. And we do support the bill and think it will be very workable for the smaller communities. [LB80]

SENATOR LOUDEN: Any questions for Gary? Guess not. [LB80]

GARY KRUMLAND: Okay. [LB80]

SENATOR LOUDEN: You got by real easy, Gary. Any other proponents? Any opponents? Anyone wishing to testify in neutral? If not, then I guess that closes the hearing on LB80. (See also Exhibit 5) We will now go to LB161. [LB80]

JODY GITTINS: Good afternoon, Chairman Louden, members of the Natural Resources Committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I am committee counsel for the Natural Resources Committee, introducing LB161 on behalf of the committee. LB161 was a bill brought to us by the Department of Environmental Quality. It raises a fee cap from \$150 to \$300 for certification of individuals who operate wastewater treatment facilities in Nebraska. This program has been in place since 1987 and the fee has been...the program has been fee funded. The original legislation established a maximum fee that can be charged at \$150 per application. The department has been at that level since August of 2002. Projected costs of the program indicated that the program will not be self-sustaining if the cap is not increased. So the department has come before the committee to ask this committee to introduce the bill to increase their cap. Generally speaking, when the department has increased their fees, it's been not a jump all at once. It's been a progression of determination after studies have gone by and they look at how much the program is costing them, as to whether or not they need to adjust their fees to meet the program costs. And right now, based on current projections, the fee will not meet those costs. Probably within the next 24 months the costs will exceed what the fee is generating. So they are asking permission to increase that cap. Pat Rice will follow me from the department to go into the program further and to tell you more about how those costs are assessed. [LB161]

SENATOR LOUDEN: Thank you, Jody. [LB161]

PAT RICE: (Exhibit 4) Good afternoon again, Senator Louden and members of the committee. My name is Pat Rice, last name is spelled R-i-c-e. I'm the director of the Water Quality Division within the Department of Environmental Quality. And I'm here today in support of LB161 which would modify the Wastewater Treatment Operator Certification Act to authorize the Environmental Quality Council to increase the maximum amount of the fee that NDEQ may charge to cover the costs associated with the certification of wastewater treatment operators. The current fee limit of \$150 was established when the act was passed in 1987. And we just...in 2002 reached that limit of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

\$150 and as was mentioned, we are anticipating within the next 24 months that the costs to run the program will exceed the available revenues that are generated with the \$150 fee. And LB161 would raise the statutory cap on the fees to \$300. The Wastewater Treatment Operator Certification Act grew out of a voluntary operator certification program that was initiated by the Nebraska Pollution Control Association in the 1960s. The act formally recognized wastewater treatment facilities' need to have competent operators to meet environmental and health standards. The department currently spends about \$92,000, or one FTE, annually to run the wastewater treatment program. These resources are used to support the state's 879 active certified operators. And we have wastewater treatment plant operators and we also have industrial treatment plant operators. Department personnel review training materials and provide ongoing operator training. We certify continuing education units and maintain a CEU database. We review applications. We set up testing materials and we proctor the exams. And we monitor operator performance. We handle numerous inquiries and we conduct enforcement when necessary. Initially, EPA provided a small grant to help get this program running. That money is no longer available and program costs are currently increasing at an annual rate of 3 to 4 percent, and because of these costs and the loss of the federal funds, we anticipate that we are going to need to raise the fees beyond the \$150. If LB161 passes, we do not propose to unilaterally raise the fees to \$300. We would propose to go to the council within the next year and suggest a \$10 increase which we anticipate would be sufficient to cover the next three years' worth of operating costs. And as was mentioned, we would incrementally raise it after that time. Raising the limit to the \$300 level will allow us the flexibility to periodically go back to the Environmental Quality Council and go through the public process there to ask for additional increases as needed. That concludes my testimony and I'd be happy to answer any questions that you might have. [LB161]

SENATOR LOUDEN: Questions? Senator Dubas. [LB161]

SENATOR DUBAS: Is this a yearly certification that they have to go through? [LB161]

PAT RICE: It's for a two-year certification. Once you're initially certified, then it's a two-year renewal. And those renewals are spaced out through the two-year period so that the revenue is fairly consistent from month to month. [LB161]

SENATOR DUBAS: Okay. [LB161]

SENATOR LOUDEN: Senator Wallman? [LB161]

SENATOR WALLMAN: Senator Louden. Do you have those people inspect school facilities too then? [LB161]

PAT RICE: No, they don't inspect school facilities. If a school would happen to have its

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

own treatment system like a rural school that was mentioned, they may have their own lagoon system or they could have a small package mechanical plant. There would be a requirement for the operator of that plant to be registered and certified under this program. [LB161]

SENATOR WALLMAN: Are they now? [LB161]

PAT RICE: Yes. [LB161]

SENATOR WALLMAN: Okay. [LB161]

SENATOR LOUDEN: Senator Carlson. [LB161]

SENATOR CARLSON: Senator Louden. Mr. Rice, if I heard right, this fee started in 1987. Was it \$150 then or did it start at something less and build up? [LB161]

PAT RICE: Yes. I believe the fees in 1987 were around \$45 initially and then they've increased gradually as the federal grant money went away. [LB161]

SENATOR CARLSON: And you just reached the point where, or you are ready to reach the point where the cost is equal to the \$150? [LB161]

PAT RICE: Yes. [LB161]

SENATOR CARLSON: Sounds like you might have had a cash reserve someplace but you don't have one, then. You didn't get \$150 all the way. [LB161]

PAT RICE: No, no. [LB161]

SENATOR CARLSON: Okay. [LB161]

PAT RICE: We do have a cash reserve but it's not sufficient to maintain the program. [LB161]

SENATOR LOUDEN: Senator Fischer. [LB161]

SENATOR FISCHER: Thank you, Senator Louden. Thank you for coming today Mr. Rice. Can you tell me how many applicants you have per year for this certification? Or every two years? [LB161]

PAT RICE: Well, it would be every two years. It should be one-half of the total number with the renewals. There are always new applicants that we haven't seen before, they're due to retirements or new people moving into the state or new businesses starting up.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

So it may be a little bit greater than the 400-plus number, but not substantially. [LB161]

SENATOR FISCHER: So you're thinking 400-plus per year? Two years...applicants. [LB161]

PAT RICE: Four hundred plus per year, so every two years. Again, we've tried to space those renewals out so that they occur as evenly as possibly we could arrange and then that keeps the revenue stream fairly constant per month. [LB161]

SENATOR FISCHER: What's involved...where does this fee go? Tell me that. Where does this money go? Does it go to operate the program? Does it go directly for some kind of classes for certification... [LB161]

PAT RICE: Yes. [LB161]

SENATOR FISCHER: ...where...okay. [LB161]

PAT RICE: Pretty much all of those things, I guess. As I mentioned... [LB161]

SENATOR FISCHER: I'd like you to tell me, though. [LB161]

PAT RICE: Certainly. [LB161]

SENATOR FISCHER: Okay. [LB161]

PAT RICE: We are required to maintain a database, number one. And to do that we've got a computer system that's set up where we keep track of how many people are certified and what the categories they're certified in and of what levels they're certified at. And as I mentioned, we've just recently added an industrial classification to that. We also provide the testing materials. We go out and research nationally what's going on in other states and what types of materials are available for workshops. We put on, I think it's six training sessions a year that operators can attend to get their CEU units and there's a requirement that they get they get the minimum number every two...yes. [LB161]

SENATOR FISCHER: May I interrupt you at this point? [LB161]

PAT RICE: Yes, you may. [LB161]

SENATOR FISCHER: When you say there are six training sessions, are the people that attend these training sessions required a fee to attend those sessions? [LB161]

PAT RICE: Yes. We do charge a fee to cover the cost of the hotel or wherever we might

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

be at, if there's any refreshments or anything associated with the cost of reproducing the training materials, etcetera. [LB161]

SENATOR FISCHER: Okay. And do they have to attend training sessions in order to have an application for certification on this? [LB161]

PAT RICE: Yes, unless they've been certified in another state that has a similar program. You can become registered initially through basically a reciprocity agreement. If you come from another state where there's a similar type program, that can get you in initially but then you are required to maintain your continuing education units every two years. So you would need to take training or go to other workshops to qualify for that. [LB161]

SENATOR FISCHER: Can you tell me what states have that reciprocity with Nebraska? Which ones do we recognize...how many? [LB161]

PAT RICE: The staff tells me 30 to 40. I don't have a list but I might be able to get that for you, Senator. [LB161]

SENATOR FISCHER: That would be nice, thank you. [LB161]

PAT RICE: Yes. [LB161]

SENATOR FISCHER: Thank you, Senator Louden. [LB161]

SENATOR LOUDEN: Other questions? This program, your idea is to more or less make it cash funded, is that what...? [LB161]

PAT RICE: It's totally cash funded, yes. [LB161]

SENATOR LOUDEN: Okay. So whatever...and that includes the people that operate it...their full-time employee-type deal is cash funded out of this program? [LB161]

PAT RICE: Yes. There's approximately one FTE total that spends this \$91,000 a year. It's not all one person that does it. I have engineers that do training. I have engineers that go out and assist operators. I have program specialists and we have clerical office staff support that's fractionally funded, to total for the one FTE. [LB161]

SENATOR LOUDEN: Okay. Thank you. Any other questions? Senator Carlson. [LB161]

SENATOR CARLSON: I just got thrown off a little bit then. Four hundred-plus per year times 150 is \$60,000, and this is \$91,000, where does the difference come from? [LB161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

PAT RICE: The difference would be the cost of the exams. There's a \$150 fee to take the exam. It's those type of activities. [LB161]

SENATOR LOUDEN: Any other questions? [LB161]

SENATOR FISCHER: Senator Louden. [LB161]

SENATOR LOUDEN: Senator Fischer. [LB161]

SENATOR FISCHER: Thank you, Senator Louden. I just got another question off of Senator Carlson. It's \$150 to take an exam and then if you pass the exam, currently it's \$150 to be certified? [LB161]

PAT RICE: After you...yes, there's a certification renewal fee which if \$150, yes. [LB161]

SENATOR FISCHER: On top of what you charge to take the exams. [LB161]

PAT RICE: Yes. [LB161]

SENATOR FISCHER: Thank you. [LB161]

SENATOR LOUDEN: Is that every year or every two years? [LB161]

PAT RICE: No. You only have to take the exam one time, but you need to continue to get your education units every two years and recertify that you've done that. Your certification and your test is good for life, as long as you haven't had any problems. [LB161]

SENATOR LOUDEN: Okay now, like now it's \$300 the first time because you have to take your exam and you have to get certified, is that correct? [LB161]

PAT RICE: Yes. [LB161]

SENATOR LOUDEN: And then when is the next time they would owe would be \$150, then? [LB161]

PAT RICE: Two years out. [LB161]

SENATOR LOUDEN: Two years out and that's all they would owe, the \$150? [LB161]

PAT RICE: Yes. [LB161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

SENATOR LOUDEN: Okay. And now when you increase this fee then, are you going to increase the cost for the exam or will that always stay at \$150? [LB161]

PAT RICE: I believe we're proposing only to go up \$10 to \$160 and I believe that was for that testing fee as well, so it would be \$160 for the test and \$160 for the renewal. [LB161]

SENATOR LOUDEN: The price of the sewer is going to go up then. [LB161]

PAT RICE: Well, unfortunately the cost is going up about 3 to 4 percent a year which is what we are finding and we are just seeking to recover that. [LB161]

SENATOR LOUDEN: Okay. Any more questions? [LB161]

SENATOR CHRISTENSEN: Senator Louden. [LB161]

SENATOR LOUDEN: Okay. [LB161]

SENATOR CHRISTENSEN: What's the classes cost then? You said there's update education once you've done these two. Is additional training, is there a charge on that too, I assume? [LB161]

PAT RICE: Yeah, a class could run \$50 to maybe \$125 depending on what the class is and what types of materials are being provided. Much of the material that we do provide them comes in notebooks and it's copyrighted material from other sources that we use. So that's what the cost...and then if we have to rent a facility. We try to space these trainings out around the state, as well, to make it easier for people to attend, and we have to rent buildings to do that. [LB161]

SENATOR CHRISTENSEN: And then the training is just that \$50 to \$120 for a town or is that per person attending? [LB161]

PAT RICE: That would be per person. Per operator. [LB161]

SENATOR CHRISTENSEN: Okay. [LB161]

SENATOR LOUDEN: Any more questions? Well, I guess, thank you. [LB161]

PAT RICE: You're welcome. Thank you, Senator. [LB161]

SENATOR LOUDEN: Any proponents? Any opponents? Anyone wish to testify in neutral? [LB161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

GARY KRUMLAND: Senator Louden, members of the committee, my name is Gary Krumland. Last name is spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm appearing in neutral today. We have had some contact from some of our members. They saw the bill and saw the fee doubled. As you heard, there are some fees involved with staying certified. It's kind of a mix among the operators of whether they have to pay it for themselves or whether the city or village pays for it. So for some of the operators, it comes out of their own pocketbook. And so they were concerned about seeing the fees potentially double. But rather than oppose the bill, I do want to just say on the other hand, the experience we've had with DEQ is that they only raise the fees when their costs go up. And when they did finally get up to, just a couple of years ago, to \$150, they did go out and tell everybody why they are and showed how they do it. So we do have confidence that they will continue that practice. If they were going to double the fees immediately, we would probably have concerns and maybe oppose that. But they have been pretty good about justifying and showing that when their costs go up they do raise fees. Otherwise, they haven't done that. So I guess I'm just testifying to show that if the fees raise too high too quickly we may have concerns, but we'd like to keep watch on that. But so far, things have been handled fairly well. [LB161]

SENATOR LOUDEN: Any questions? Senator Fischer. [LB161]

SENATOR FISCHER: Thank you, Senator Louden. I'm showing my ignorance on this issue. Is this a federal requirement, I would assume? [LB161]

GARY KRUMLAND: That, I can't answer. I just don't have...I'm assuming it probably came from some federal requirement; but probably someone from DEQ might be able to answer that. [LB161]

SENATOR FISCHER: It could possibly be a state requirement? [LB161]

GARY KRUMLAND: It is a state requirement, but whether it's been brought...came down from the federal government, I don't know the answer to that. [LB161]

SENATOR FISCHER: So all operators have to be certified. [LB161]

GARY KRUMLAND: Right. [LB161]

SENATOR FISCHER: What's a community's liability on this? [LB161]

GARY KRUMLAND: Well, I'm assuming that if an operator isn't certified they can't operate the system and...I don't... [LB161]

SENATOR FISCHER: Okay. Thank you. Thank you, Senator. [LB161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

SENATOR LOUDEN: Senator Christensen. [LB161]

SENATOR CHRISTENSEN: Thank you, Senator Louden. Is there a reason why some of the cities pay for it and sometimes the operator has to? That inconsistency doesn't seem right, but... [LB161]

GARY KRUMLAND: It's...I don't...and actually, it probably is some of the larger cities that don't pay for it. They advertise and say, if you want to qualify for this position you have to be a certified wastewater operator. So, but...it's all over the board. [LB161]

SENATOR CHRISTENSEN: Okay. [LB161]

SENATOR LOUDEN: I have a question. What would happen if instead of \$300 they just raised it to \$200 and then when they hit that max, come back in here and do this again? Do you have a problem with anything like that? [LB161]

GARY KRUMLAND: No. I mean, I wouldn't have a problem with that. I mean, that would...they would have to justify it. But they have done that pretty much in the past too, where they have only raised it when they have shown that the costs have gone up. [LB161]

SENATOR LOUDEN: But you feel that their operation has always been satisfactory with...you feel they haven't raised the fees excessively? [LB161]

GARY KRUMLAND: Generally, yeah, they have raised fees when their costs have gone up and haven't done that. It took them 15 years to reach the maximum when it was originally set at \$150, so. [LB161]

SENATOR LOUDEN: Okay, thank you. Anybody else have questions? Thank you, Gary. [LB161]

GARY KRUMLAND: Um-hum. [LB161]

SENATOR LOUDEN: Anyone else wish to testify in a neutral position? [LB161]

JODY GITTINS: (Exhibit 5) We need to read into the record support for LB80 from the Nebraska Health and Human Services. [LB161]

SENATOR LOUDEN: Okay. And this will close the hearing on LB161. And then I have a letter here for support for LB80 to be read into the record from the Department of Health and Human Services and this would allow the Drinking Water Administration that funded the Drinking Water Revolving Fund. So, with that, we'll close the hearings and we'll go

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

into Executive Session. [LB161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 17, 2007

Disposition of Bills:

LB79 - Advanced to General File.

LB80 - Advanced to General File, as amended.

LB161 - Advanced to General File.

Chairperson

Committee Clerk